

REMARKS

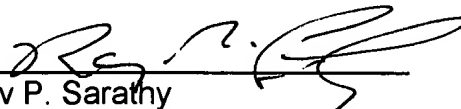
Claims 11-28 were pending in the application at the time the present Office Action was mailed. The Office Action rejects claims 11-14, 16, 18-22, and 24-28 under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent Application No. 10/031,992 ("Frerebeau"). The Office Action rejects claims 15, 17, and 23 under 35 U.S.C. § 103(a) as being unpatentable over Frerebeau in further view of the Office Action's Official Notice. The Office Action was made final after rejecting the claims on new grounds. The applicants amend claim 26 to correct a minor typographical error and add claims 29 and 30. Thus, claims 11-30 are now pending.

Without in any way conceding the merits of the rejections, the applicants respectfully point out that Frerebeau is unavailable as a reference under either 35 U.S.C. § 102(e) or 35 U.S.C. § 103(a). Frerebeau is unavailable as a reference under 35 U.S.C. § 102(e) because its international filing date was May 22, 2001, which is after the applicants' U.S. filing date of November 1, 2000. Frerebeau's prior filing date in France (i.e., May 26, 2000) is unavailable as a § 102(e) reference date in the U.S. because the French application could not have "designated the United States" and was not published "in the English language." (35 U.S.C. § 102(e). See MPEP § 706.02(f). See *also* the first flowchart in MPEP § 706.02(f)(1), which instructs "NOT [to] consider foreign priority claims.") The applicants have attached the first page of the French application's publication. Frerebeau is thus also unavailable as a reference under 35 U.S.C. § 103(a).

In view of the foregoing, a Notice of Allowance is, respectfully requested. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-6478.

Dated: Jan. 21, 2005

Respectfully submitted,

By 
Rajiv P. Sarathy

Registration No.: 55,592
PERKINS COIE LLP
P.O. Box 1247
Seattle, 98111-1247
(206) 359-8000
(206) 359-7198 (Fax)
Attorney for Applicant